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October 23, 2023

VIA ECF

REQUEST GRANTED IN PART AND DENIED IN PART as to all defendants. Defendants' to make pretrial motions by December 22, 2023. Government oppositions due by January 5, 2024. Defendants' replies due by January 11, 2024. Motion Hearing set for January 18, 2024 at 10:00AM in Courtroom 15C at the 500 Pearl Street Courthouse. The Court denies the request for an adjournment of the trial date and the trial will proceed as previously scheduled on March 18, 2024.

Hon. Lewis J. Liman
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

11/1/2023 SO ORDERED.

A handwritten signature in black ink, appearing to read 'L. Liman', is written over a horizontal line. Below the line, the text 'LEWIS J. LIMAN' and 'United States District Judge' is printed.

LEWIS J. LIMAN
United States District Judge

Re: ***United States v. Michael Shvartsman, et. al., No. 23 Cr. 307 (LJL)***

Dear Judge Liman:

We respectfully submit this letter on behalf of Defendant Bruce Garelick and Gerald Shvartsman to request an adjournment of the pretrial motions deadline, currently set for November 24, 2023, and of the trial, currently set for March 18, 2021. We request that the motions deadline be adjourned until December 22, 2023, and the trial until a date convenient for the Court in June 2024. This is Defendants' first request for an adjournment of these deadlines. Defendant Michael Shvartsman joins in this request. The government has authorized us to represent to the Court that it consents to the proposed adjournment of the motions deadline and takes no position on the proposed adjournment of the trial date.

The defense requires additional time in view of the complexity of the case, the substantial volume of discovery produced to date, additional anticipated discovery, and the need for further defense investigation. Although undersigned counsel for Mr. Garelick were not involved in the case when the original deadlines were set, we are fully aware of the Court's directive at the initial scheduling conference that any counsel subsequently joining the case must be available for a trial in March. We can indeed be available in March, but believe that further time is required in the interest of justice to allow sufficient time for additional pre-motion analysis and for the preparation of the defense. The adjournments we request would set the trial approximately one year out from the unsealing of the Indictment, a time-span that is not at all unusual in this District, particularly in multid defendant cases like this one, which involve millions of pages of documentary discovery, and complex factual allegations and background.

The defendants are charged with conspiracy and nine substantive counts based on alleged securities law violations in connection with trading related to a special purpose acquisition corporation ("SPAC") that was considering a possible merger with a company known as the Trump Media and Technology Group ("TMTG"). (*E.g., id.* ¶¶ 1-4). The circumstances have spawned Congressional and SEC investigations in addition to the current criminal case, and have

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been described in the press as relating to one of the largest and most controversial SPAC offerings in history. Had we participated in the initial scheduling conference, we would have asked the Court to provide more time for defense analysis and investigation and to set a later trial date.

On September 5, 2023, the defendants received the government's initial Rule 16 production, which consisted of approximately 820,000 pages of documents, along with hundreds of audio or video files. The government separately produced a trove of data from Mr. Garelick's cell phone, iCloud storage, and email account. The government made a similar separate production for defendant Gerald Shvartsman. Just recently, on October 12, 2023, the government produced approximately 180,000 pages of additional materials, including additional audio or video files. We understand, based on our conversations with the government, that a further discovery production is forthcoming. That production is anticipated to include, among other materials, statements of the defendants, recordings of conversations, and aspects of witness interviews that may constitute *Brady* material.

We have been working diligently to review the materials produced to date. We have advised the government that, based on our initial review, it appears that thousands of documents across these two productions lack key metadata, and the government has advised us that such metadata may not be available. The lack of that metadata has impeded the defense's review by making it more difficult to electronically sort and prioritize the materials received. Separately, many of the audio and video files produced do not contain adequate file names or dates, making it difficult to conduct an efficient targeted or selective review.

Other discovery-related issues need to be sorted out, including the contents of documents or portions of documents withheld on privilege grounds. In addition, the government responded to Garelick's discovery requests and request for a bill of particulars for the first time today, and Garelick is still evaluating the adequacy of that response.

As we continue to sort through the discovery and related materials, we also respectfully request an additional month to assess whether suppression or other pre-trial motions are appropriate. Based on our review, it appears the government engaged in extremely broad searches and seizures of Mr. Garelick's materials from numerous sources, and relied on an undisclosed warrant to covertly search Mr. Garelick's phone at J.F.K Airport in December 2021, when Mr. Garelick was returning from a vacation in Mexico.

Respectfully submitted,

/s/ Jonathan P. Bach
Jonathan P. Bach
Counsel for Bruce Garelick

/s/ Roland G. Riopelle
Roland G. Riopelle
Counsel for Gerald Shvartsman

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cc: All Counsel of Record